

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 22 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DONALD C. MARRO,

Plaintiff - Appellant,

v.

GLOBE CORPORATION, doing business
as East West moving and storage,

Defendant - Appellee.

No. 05-17046

D.C. No. CV-04-01968-CW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Claudia Wilken, District Judge, Presiding

Submitted April 17, 2008**

Before: KOZINSKI, Chief Judge, BROWNING and SKOPIL, Circuit Judges.

The Carmack Amendment, 49 U.S.C. § 14706, is applicable to Marro's claims and completely preempts Marro's stated causes of action. The Carmack

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Amendment is the exclusive cause of action for interstate-shipping contract claims alleging loss or damage to property, *see Hall v. North American Van Lines, Inc.*, 476 F.3d 683, 688 (9th Cir. 2007), and all of Marro's alleged injuries stem directly from Globe Corp.'s loss of his property.

The Carmack Amendment limits a carrier's liability under an interstate bill of lading to the actual loss or injury to the property caused by the carrier; punitive damages are therefore not available. 49 U.S.C. § 14706; *Hall*, 476 F.3d at 686 n.2 (quoting 49 U.S.C. § 14706(a)); *Neptune Orient Lines, Ltd. v. Burlington Northern and Santa Fe Ry. Co.*, 213 F.3d 1118, 1120 (9th Cir. 2000). Thus, the district court properly denied Marro's request for punitive damages.

The liability limitation agreement that Marro signed is only enforceable if he had "reasonable notice of the liability limitation and the opportunity to obtain information necessary to making a deliberate and well-informed choice." *Hughes Aircraft Co. v. N. Am. Van Lines, Inc.*, 970 F.2d 609, 612 (9th Cir. 1992).

Magistrate Judge Chen found that Marro had a reasonable opportunity to choose between different levels of coverage and was not under duress. The district court adopted the Magistrate's report "in every respect." These factual findings are not clearly erroneous. *See Estrada v. Speno & Cohen*, 244 F.3d 1050, 1056 (9th Cir. 2001). The liability limitation agreement is therefore enforceable.

AFFIRMED.